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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER
NGUYEN, HAI V

ART UNIT	PAPER NUMBER
2142	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/22/2006	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

	Application No.	Applicant(s)
Office Action Summary	10/085,218	MANGALVEDHEKAR, SUNIT B.
	Examiner	Art Unit
	Hai V. Nguyen	2142

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>03</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>09 October 2006</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-35 and 37-46* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-35 and 37-46* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)   4)☐ Interview Summary (PTO-413)
                                             Paper No(s)/Mail Date. _____.

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO/SB/08)   5)☐ Notice of Informal Patent Application
    Paper No(s)/Mail Date <u>*10/09/06*</u>.   6)☐ Other: _____.

U.S. Patent and Trademark Office

PTOL-326 (Rev. 08-06)   **Office Action Summary**   Part of Paper No./Mail Date 20061213

DETAILED ACTION

1.   This Office Action is in response to the communication received on 09 October

2006.

2.   Claims 1-35 and 37-46 are presented for examination.

Claim Rejections - 35 USC § 112

3.   The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of
> making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the
> art to which it pertains, or with which it is most nearly connected, to make and use the same and shall
> set forth the best mode contemplated by the inventor of carrying out his invention.

4.   Claims 1, 13, 24 and 37 are rejected under 35 U.S.C. 112, first paragraph,

because the specification, while being enabling for *"The software is also operable to*

initiate downloading of the selected file and automatically determine the identity of, and

initiate downloading of, the at least one associated file in response to the request. The

software is also operable to initiate storing, in a memory associated with the client, of

the selected file and the at least one associated file under respective local identifiers

(paragraphs, [0004], [0005])", does not reasonably provide enablement for *"In response*

to requesting downloading of the selected file, initiating downloading of the selected file

and automatically determining the identity of, and initiating downloading of, the at least

one associated file before any executing the selected file.". The specification does not

enable any person skilled in the art to which it pertains, or with which it is most nearly

connected, to make and use the invention commensurate in scope with these claims.

Applicant's specification does not show how *"The software is also operable to initiate*

downloading of the selected file and automatically determine the identity of, and initiate

downloading of, the at least one associated file in response to the request <u>before any</u>

<u>executing of the selected file</u>" works. Accordingly, the ordinary skill in the networking art

cannot comprehend what the useful, tangible results from the instant claimed look like.

Claim Rejections - 35 USC § 102

5.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102(e)

that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the

Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a

U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore,

the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-

AIPA 35 U.S.C. 102(e)).

6.   Claims 1-35 and 37-46 are rejected under 35 U.S.C. 102(e) as being anticipated

by **Hoyle** US patent # **6,771,290 B1**.

7.   As to claim 1, Hoyle, teaches substantially the invention as claimed, including a

method of accessing, by a client *(Fig. 1, user computer 18)*, one or more files *(Fig. 1,*

program modules or software applications) residing in a server *(Fig. 1, server 22)*

comprising:

requesting, by the client, downloading of a selected file residing in the server *(download*

request for a filename or an updated program module or an updated software (Fig. 1),

the selected file associated with at least one associated file *(individual file or resource or*

an user-selectable link or an updated version identifier or software update) and including instructions *(user profile and library)* to access, either directly or indirectly *(accessing from anywhere on the network)*, the associated file *(Abstract, Fig. 1, col. 5, line 5 – col. 8, line 50; col. 10, lines 21-34)*;

in response to requesting downloading of the selected file, initiating downloading of the selected file and automatically determining the identity *(the version identifier)* of, and initiating downloading of, the at least one associated file *(Abstract, Fig. 1, col. 5, line 5 – col. 8, line 50; col. 10, lines 21-34)*;

initiating storing, in a memory associated with the client, of the selected file and the at least one associated file under respective local identifiers *(category identifiers or software application identifiers) (Abstract, Fig. 1, col. 5, line 5 – col. 8, line 50; col. 10, lines 21-34)*.

The heart of the invention is providing accessing a particular file and all of its associated files automatically and efficiently by the computer users. Hoyle exactly was directed to the same purpose, i.e., to provide accessing a software application and its update files anywhere in the network automatically and easily by the computer users.

8.   As to claim 2, Hoyle discloses maintaining, by a document manager residing in the server, respective profiles of the one or more files *(Abstract, Figs. 5-7, col. 5, line 5 – col. 8, line 50; col. 10, lines 21-34)*.

9.   As to claim 3, Hoyle discloses, wherein the selected file is associated with at least one profile, the at least one profile identifying the at least one associated file *(Abstract, Figs. 5-7, col. 5, line 5 – col. 8, line 50; col. 10, lines 21-34)*.

10.   As to claim 4, Hoyle discloses, wherein the profile identifies the at least one

associated file by the Uniform Resource Locator *(Abstract, Figs. 5-7, col. 5, line 5 – col.

8, line 50; col. 10, lines 21-34)*.

11.   As to claim 5, Hoyle discloses, wherein automatically determining the identity of,

and initiating downloading of, the at least one associated file comprises examining a

profile of the selected file, the profile identifying the at least one associated file

(Abstract, Figs. 5-7, col. 5, line 5 – col. 8, line 50; col. 10, lines 21-34).

12.   As to claim 6, Hoyle discloses, and further comprising maintaining a respective

status file for each of the selected file and the at least one associated file, each status

file indicating one or more properties of the respective selected file and the at least one

associated file *(Abstract, Figs. 5-7, col. 5, line 5 – col. 8, line 50; col. 10, lines 21-34;

col. 25, line 33 – col. 26, line 48)*.

13.   As to claim 7, Hoyle discloses, wherein the status file is a cookie file *(Abstract,

Figs. 5-7, col. 5, line 5 – col. 8, line 50; col. 10, lines 21-34; col. 25, line 33 – col. 26, line

48)*.

14.   As to claim 8, Hoyle discloses, wherein the status file consists solely of a

timestamp indicative of a time of download *(Abstract, Figs. 5-7, col. 5, line 5 – col. 8,

line 50; col. 10, lines 21-34; col. 25, line 33 – col. 26, line 48)*.

15.   As to claim 9, Hoyle discloses, wherein the status file comprises a timestamp

indicative of a time of download, a check out status, and respective identities of the at

least one associated file *(Abstract, Figs. 5-7, col. 5, line 5 – col. 8, line 50; col. 10, lines

21-34; col. 25, line 33 – col. 26, line 48)*

16.   As to claim 10, Hoyle discloses, wherein the memory associated with the client is

a root of a cache, the root identified by a root directory identifier *(Abstract, Fig. 5, col. 5,*

line 5 – col. 8, line 50; col. 10, lines 21-34; col. 25, line 33 – col. 26, line 48).

17.   As to claim 11, Hoyle discloses, wherein each of the respective local identifiers

comprises the root directory identifier *(Abstract, Fig. 5, col. 5, line 5 – col. 8, line 50; col.*

10, lines 21-34; col. 25, line 33 – col. 26, line 48).

18.   As to claim 12, Hoyle discloses, generating, by the client, the one or more files

for uploading to the server *(Abstract, Figs. 5-7, col. 5, line 5 – col. 8, line 50; col. 10,*

lines 21-34; col. 25, line 33 – col. 26, line 48);

generating, by the client, a profile associated with each of the one or more files

(Abstract, Figs. 5-7, col. 5, line 5 – col. 8, line 50; col. 10, lines 21-34; col. 25, line 33 –

col. 26, line 48); and

uploading *(transferring)*, by the client, the profile and the each of the one or more files to

the server *(Abstract, Figs. 5-7, col. 5, line 5 – col. 8, line 50; col. 10, lines 21-34; col. 25,*

line 33 – col. 26, line 48).

19.   Claim 13 is similar limitations of claim 1, 4; therefore, it is rejected under the

same rationale as in claims 1, 4.

20.   Claims 14-23 are similar limitations of claims 2-3, 5-12; therefore, they are

rejected under the same rationale as in claims 2-3, 5-12.

21.   Claim 24 is corresponding apparatus claim of claim 1; it is rejected under the

same rationale as in claims 1.

22.   Claims 25-35 similar limitations of claims 2-12; therefore, they are rejected under

the same rationale as in claims 2-12.

23.   Claim 37 is corresponding system claim of claim 1; it is rejected under the same

rationale as in claims 1.

24.   Claims 38-46 similar limitations of claims 4-12; therefore, they are rejected under

the same rationale as in claims 2-12.

25.   Further references of interest are cited on Form PTO-892, which is an·

attachment to this action.

Response to Arguments

26.   Applicant's arguments received on 09 October 2006 have been fully considered

but they are not persuasive.

27.   In the remark, Applicant argued in substance that:

Point (A), the prior art does not disclose that, *"In response to requesting*

downloading of the selected file, initiating downloading of the selected file and

automatically determining the identity of, and initiating downloading of, the at least one

associated file before any executing of the selected file." in claims 1, 13, 24 and 37.

As to point (A), Hoyle discloses that, *"In response to requesting downloading of*

the selected file (the updated program module or an updated software), initiating

downloading of the selected file and automatically determining the identity (the version

identifier) of, and initiating downloading of, the at least one associated file (the software

update) before any executing of the selected file (before carrying out the upgrading the

updated software version).". Hoyle discloses that, "One of the program modules is

operable upon execution to access the stored version identifier(s) and at least one

updated version identifier from a server via a network, including a global public network

such as the Internet. These updated version identifier(s) represent updated program

modules accessible from a server via the network. This program module is further

operable, if desired, <u>to download one or more updated program modules when the</u>

<u>stored version identifier and the updated version identifier are different, with the updated</u>

<u>program module(s) replacing one or more of the program modules</u>. In this way, <u>software</u>

<u>upgrades can be carried out, either as desired and requested or automatically without</u>

<u>any user action required</u>. Also, upgrading can be accomplished without having to

download and install an entire software package, (col. 6, lines 30-45)". It would have

been clearly that Hoyle discloses determining the updated software version identifier(s)

before carrying out upgrading the updated software automatically without any user

action required.

Conclusion

28.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Hai V. Nguyen whose telephone number is 571-272-

3901. The examiner can normally be reached on 6:00-3:30 Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Andrew Caldwell can be reached on 571-272-3868. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

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Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Hai V. Nguyen
Examiner
Art Unit 2142

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